



DECLARATION OF IAN MACLACHLAN, PH.D.
UNDER 37 CFR 1.132

I, Ian MacLachlan, Ph.D., declare as follows:

1. All statements herein made of my own knowledge are true, and statements made on information or belief are believed to be true and correct.

2. I currently hold the position of Chief Scientific Officer for Protiva Biotherapeutics, Inc, located in Burnaby, British Columbia, Canada, a licensee of U.S. Patent Application Serial No. 09/431,594, entitled "Lipid-Nucleic Acid Particles Prepared Via a Hydrophobic Lipid-Nucleic Acid Complex Intermediate and Use For Gene Transfer." My field of expertise is nucleic acid delivery and molecular gene therapy. I have authored over twenty-five publications in the field of nucleic acid delivery technology, molecular gene therapy and molecular genetics, and I am a member of the American Society of Gene Therapy and the Oligonucleotide Therapeutics Society. A copy of my *Curriculum Vitae* is attached hereto (Exhibit A).

3. I have read and am familiar with the above-identified patent application, and the Office Action mailed March 7, 2006 by the United States Patent & Trademark Office in the above-referenced patent application. It is my understanding that U.S. Patent No. 5,820,873 (Choi *et al.*) and U.S. Patent No. 5,885,613 (Holland *et al.*) are cited by the Examiner as allegedly disclosing nucleic acid particles that meet the structural limitations of the particles claims in the above-referenced patent application.

4. I submit this Declaration for the purpose of providing additional evidence regarding the ability of the lipid hydration-extrusion method described in Choi *et al.* Holland *et al.* to be used to encapsulate nucleic acids. Specifically, this declaration is provided to supplement my prior declarations submitted December 21, 2005 and May 30, 2005, which demonstrated that the methods of Choi *et al.* and Holland *et al.* could not be used to efficiently encapsulate plasmid DNA, and to present additional data regarding the

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